Shaun Peterson #298007
Name and Prisoner/Booking Number
Eyman Complex/Meadows Unit
Place of Confinement
PO Box 3300
Mailing Address
Florence, Arizona 85132
City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Shaun Andrew Peterson,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) David Shinn,
(Full Name of Defendant)

(2) and others,

(3) _____,

(4) _____,

Defendant(s).

☑ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. CV-22-00042-PHX-GMS (MTM)
(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER

Jury Trial Demanded

☐ Original Complaint
☑ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
   - ☑ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
   - ☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
   - ☐ Other: _____.
2. Institution/city where violation occurred: Meadows Unit/Florence.

Defendants

(1) David Shinn

(2) Walter Hensley

(3) (unknown) Stickley

(4) John Doe #1 (ADW)

(5) John Doe #2 (FHA)

(6) John Doe #3 (DON)

(7) John Doe #4 (ADON)

(8) Maureen Gay

(9) John Doe #5 (REF)

(10) Angel Merriman

(11) H. Dison

B. DEFENDANTS

1. Name of first Defendant: David Shinn. The first Defendant is employed as: Director (Position and Title) at ADCRR (Institution).

2. Name of second Defendant: Walter Hensley. The second Defendant is employed as: Warden (Position and Title) at Eyman Complex (Institution).

3. Name of third Defendant: (unknown) Stickley. The third Defendant is employed as: Deputy Warden (Position and Title) at Special Management Unit 1 (Institution).

4. Name of fourth Defendant: Doe #1. The fourth Defendant is employed as: Assistant Deputy Warden (Position and Title) at Special Management Unit 1 (Institution).

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☑ No

2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:

   a. First prior lawsuit:
      1. Parties: _____ v. _____
      2. Court and case number: _____.
      3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

   b. Second prior lawsuit:
      1. Parties: _____ v. _____
      2. Court and case number: _____.
      3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

   c. Third prior lawsuit:
      1. Parties: _____ v. _____
      2. Court and case number: _____.
      3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

B. DEFENDANTS

5. John Doe #2 (FHA) ; employed as: Facility Health Administrator at: Special Management Unit 1

6. John Doe #3 (DON) ; employed as: Director of Nursing at: Special Management Unit 1

7. John Doe #4 (ADON) ; employed as: Assistant Director of Nursing at: Special Management Unit 1

8. Maureen Gay ; employed as: Medical Provider/Staff at: Special Management Unit 1

(9) John Doe #5 (REF) ; employed as: Correctional Officer II at: Special Management Unit 1

(10) Angel Merriman ; employed as: Medical Provider/Staff at: Special Management Unit 1

(11) H. Dison ; employed as: Correctional Officer IV at: Special Management Unit 1

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: Denial of medical care in violation of Eighth Amendment.

2. **Count I.** Identify the issue involved. Check **only one.** State additional issues in separate counts.

☐ Basic necessities ☐ Mail ☐ Access to the court ☒ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

1. On or about March 15, 2015, Plaintiff was transferred to Special Management Unit 1 (SMU1)
2. The medical department was provided documentation through medical records of Plaintiff's diagnosis of glaucoma and optic neuropathy (since 1990).
3. On February 29, 2016 this was confirmed by ADOC's own eye specialist.
4. On October 18, 2018, Plaintiff requested assignment to bottom bunk subsequent to a fall from a top bunk. This Health Needs Request was not processed until 299 days later in violation of policy. This responsibility for processing HNR's falls to Defendants Doe #3, the Director of Nursing and Doe #4, the Assistant Director of Nursing, as supervisors.
5. Between November 1, 2018 and April 2019, Plaintiff's eye medication was repeatedly not refilled. He submitted numerous HNR's requesting refill. These HNR's were ignored. By the end of April, 2019 the lack of eye medication resulted in an infection setting in.
6. On or about April 1, 2019 Plaintiff submitted HNR #2 requesting to be seen for the eye infection. Instead of being taken to medical for the eye infection,

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

The actions or inactions of the Defendants that caused or proximately caused the loss of sight are described in heightened detail per this Court's order filed March 1, 2022 in pages 4-A through 4QQ.

5. **Administrative Remedies:**

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☑ Yes ☐ No
b. Did you submit a request for administrative relief on Count I? ☑ Yes ☐ No
c. Did you appeal your request for relief on Count I to the highest level? ☑ Yes ☐ No
d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

Defendant Officer Doe #5 signed a Refusal of Medical treatment form fraudulently without ever consulting with Plaintiff to verify he wanted to refuse medical treatment.

7. Due to this, Plaintiff was not seen for his eye infection at that time. The infection was allowed to run rampant, causing much additional pain and suffering, until his optic nerve "exploded".

8. Defendant Officer Doe #5 delayed the necessary medical treatment Plaintiff needed and as a result of his willful, and deliberate indifferent actions Plaintiff was rendered blind on or about May, 2019.

9. Between May, 2019 and February, 2021, Plaintiff submitted no fewer than 18 Health Needs Requests to alleviate his pain and suffering. None were triaged and processed according to policy timeframes, prolonging Plaintiff's immense pain and suffering.

10. The responsibility for responding to those HNR's in a timely manner falls to Defendants Maureen Gay and Angel Merriman. Most of those HNR's were requesting his prescribed medications, which were withheld by these two defendants.

11. The responsibility for tracking responses to HNR's and verifying the continuous supply of prescribed medication without interuption falls to Defendants John Doe # 2, #3, #4. They each failed to maintain a system for ensuring that Plaintiff's Health Needs Requests were responded to in a timely and reasonable manner and that his medications were

supplied in an uninterrupted manner. These failures caused Plaintiff much additional pain and suffering and further damage to his eyes.

12. On August 6, 2019; September 9, 2019; October 4, 2019; October 6, 2019; and November 6, 2019 Plaintiff alerted prison officials of the repeated denials and delays of medical care for his serious medical needs through Inmate Letters, Informal Complaints, Grievances, and Grievance Appeals. Instead of addressing Plaintiff's medical issues, prison officials repeatedly "unprocessed" his notifications to them for minor technical errors even though Plaintiff was, by then, almost completely blind and could not read grievance procedures well enough to do much more than alert them to the problems he was facing.

13. The responsibility for responding to the documents listed in item 12 falls to Walter Hensley, (unknown) Stickley, John Does #1, #2, #3, #4 and H. Olson. Their failures to reasonably respond to these various methods of notification caused Plaintiff much additional pain and suffering and further damage to his eyes.

14. On July 12, 2019 Plaintiff submitted a letter to Prison Law Office, who soon after filed a Parsons v Ryan medical complaint. This alerted John Doe #1, (unknown) Stickley, Walter Hensley, and David Shinn of the ongoing medical deficiency. None responded and provided relief for Plaintiff's pain and suffering.

15. Due to the Defendants named in item 14's failure to reasonably respond, Plaintiff suffered much additional pain and damage to his eyes.

CV-22-00042-PHX-GMS (MTM)

Supervisory Liability for the Denial of Medical Care

Defendant Shinn holds the supervisory position of Director, ADCRR. His personal responsibilities include the administrative oversight and provision of constitutionally adequate healthcare for Arizona's prisoners. Estelle v Gamble, 429 U.S. 97, 97 S.Ct. 285 (1976); U.S.CA.8. He does this by personally contracting professional services to assist in carrying out this responsibility on behalf of the state. Ariz. Rev. Stat. 31-201.01(D). In spite of the presence of contracted professionals, he alone is ultimately responsible to ensure their work is constitutionally adequate (Estelle) through his own culpable action or inaction in the training, supervision, or control of subordinates, his acquiescence in the constitutional deprivation of which a complaint is made or for conduct that showed a reckless or callous indifference to the rights of others (citation omitted) City of Canton v Harris, 489 U.S. 378, 385, 109 S.Ct. 1197 (1989); see also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007)

Defendant Shinn personally meets with his subordinates and representatives of the healthcare services contractor(s) who report deficiencies and areas of concern in ADCRR's healthcare system. He then established policies and directives to address these deficiencies, and is responsible for affirmatively supervising his subordinates as they supervise and train their subordinates to implement those policies and directives in a manner that achieves

the desired result of constitutionally adequate healthcare.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny adequate medical care in violation of prisoners' Eighth Amendment rights and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare through retaliatory actions.

These are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Defendant Shinn has known of and disregarded the excessive risk to the health of prisoners posed by the presence of the three above-mentioned violations through more than a decade of litigation and failures of ADCRR to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601-PHX-ROS (now Jensen v Shinn), an ADC prisoner class-action concerning the provision of medical care in ADCRR prisons. His knowledge by inference supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues have been repeatedly highlighted as "long-standing, pervasive, well-documented and expressly noted" as "so likely to result (continue to) in violations of constitutional rights that defendants can reasonably be said to the need" if they continue. by past administrations and courts. This satisfies the supervisory liability and deliberate indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir. 1999) (a supervisor may be

found personally involved in a deprivation of rights in several ways... He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue... He, after learning of the violation through a report or appeal may have failed to remedy the wrong...)

Additionally, for the supervisory liability standard, Plaintiff alleges that Defendant Shinn's own actions of continuing to pay healthcare contractor who has never been in constitutional compliance since assuming the contract many years ago fulfills all three liability stipulations of City of Canton v Harris. His culpable action is paying hundreds of millions of dollars for deficient healthcare while are fined only tens of millions for their deficiencies. This is acquiescence of the sort that fulfills both deliberate indifference and supervisory liability standards. His inaction is in failing to properly train, supervise and control his subordinates to ensure they properly implement methods to meet court-ordered standards of medical care for Arizona's prisoners.

Plaintiff alleges that Defendant Shinn, instead of using taxpayer money to institute effective programs of "checks and balances" to eliminate the unconstitutional deficiencies in ADCRR's healthcare system, Defendant Shinn has made a series of deliberate and conscious choices to continue to pay the legal fees and fines for the substandard healthcare he provides. This establishes an affirmative link between his deliberate and conscious choices and

the wanton and unnecessary infliction of pain suffered by Plaintiff.

Plaintiff further alleges that, in light of the duties assigned to Defendant Shinn, more than 10 years of long-standing and expressly noted failures in the ADCRR medical care system and the grievance system, and widespread failure to control retaliatory conduct of subordinates has made the need for more and different training and supervision and control obvious and the continuation of these inadequacies so likely to result in violations of constitutional rights that Defendant Shinn can reasonably be said to have been indifferent to the need.

City of Canton v Harris

Plaintiff alleges that Defendant Shinn knew of the healthcare deficiencies, knew they would be grieved, knew from numerous Parsons v Ryan report they would likely be "unprocessed" in violation of DO 802.5.2.1-802.5.2.2.5 which allows only for a designation of either "resolved" or "not resolved", in an effort to cut off the complaints from reaching upper management and the ADCRR compliance monitor, and yet he failed to remedy these wrongs.

Plaintiff alleges that Defendant Shinn, in not properly training, supervising or controlling subordinates in the proper processing of grievances actually allowed Plaintiff's cries for help for medical care to purposefully go unanswered for so long he lost his sight.

Plaintiff alleges these were deliberate and conscious choices by the Director and sufficiently states a claim for relief for supervisory liability for the denial of Medical Care due deliberate indifference.

Shinn

Discovery will be necessary to ascertain the extent of this Defendant's liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984) (supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of"; Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec 31, 2009) (restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.)

Finally, it has been held: "after Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F.Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009). The answer is, yes, it is plausible that the defendant has failed in his supervisory duties to correct the same deficiencies of the last 10 years that plaintiff alleges still exist and led to his loss of sight, and yes, additional discovery would fill in the gaps left in this complaint.

Supervisory Liability for the Denial of Medical Care

Defendant Hensley holds the supervisory position of warden for Eyman Complex. His personal responsibilities include the administrative oversight of Eyman Complex operations and the oversight and provision of constitutionally adequate healthcare for Eyman Complex's prisoners, Estelle v Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976); U.S.C.A. 8.

He does this by personally meeting with his subordinates and representatives of the contracted healthcare provider services who report deficiencies and areas of concern that adversely affect the provision of constitutionally adequate healthcare to Eyman Complex's prisoners. He investigates the accuracy of these reports and provides them directly to the director, ADCRR.

Defendant Hensley as warden, receives the director's orders and formulates policy and directives to his subordinates, including representatives of the healthcare provider services. As warden, in spite of the presence of the contracted professionals, he is liable for ensuring their work at Eyman Complex is constitutionally adequate (Estelle) through his own culpable action or inaction in the training, supervision or control of subordinates, his acquiescence in the constitutional deprivation of which a complaint is made or for conduct that showed a reckless or callous indifference to the rights of others (citation omitted). City of Canton v Harris, 489 U.S. 378, 385, 109 S. Ct. 1197 (1989); see also Edgerly v City and County of San Francisco, 495 F. 3d 645, 660 (9th Cir 2007).

Defendant Hensley warden has failed in his responsibilities

to affirmatively supervise his subordinates as they supervise and train their subordinates to implement those policies and directives in a manner that achieves the desired result of constitutionally adequate healthcare.

Eyman Complex's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare through retaliatory actions.

Plaintiff alleges that these are not isolated occurrances, They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Plaintiff alleges that Defendant Hensley has known of and disregarded the excessive risk to the health of prisoners posed by the presence of the three above-mentioned violations through more than a decade of litigation and failures of Eyman Complex to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601 PHX-Ros, an ADC prisoner class-action concerning the provision of medical care in ADCRR prisons. His knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues have been repeatedly highlighted as "long-standing, pervasive, well-documented and expressly noted" as "so likely to result in violations of constitutional rights that defendants can reasonably be said to be indifferent to the needs" by past administrations and courts.

This satisfies the supervisory liability and deliberate

indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir. 1999)(a supervisor may be found personally involved in a deprivation of rights in several ways... He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue... He, after learning of the violation through a report or appeal may have failed to remedy the wrong...) Plaintiff alleges that Defendant Hensley knew of the healthcare deficiencies, knew they would be grieved, and knew from numerous Parsons v Ryan reports they would likely be "unprocessed" in violation of DO 802.5.2.1-802.5.2.2.5 which allows only for a designation of either "resolved" or "not resolved", in an effort to cut off the complaints from reaching upper management and the ADCRR compliance monitor, and yet he failed to remedy these wrongs.

Plaintiff alleges that Defendant Hensley, in not properly training supervising, or controlling subordinates in the proper processing of grievances, actually allowed Plaintiff cries for help for medical care to purposefully go unanswered in an effort to avoid oversight of the ADCRR compliance monitor and the courts. The result is that plaintiff's cries for help went unanswered for so long he lost his sight.

Plaintiff alleges this was a deliberate and conscious choice by the warden and sufficiently states a claim for supervisory liability for the denial of medical care due to deliberate indifference.

Discovery will be necessary to ascertain the extent of this

warden

Defendant's liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984) (supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of"); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.

Finally, it has been held; "After Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint? Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009).

The answer is, yes, it is plausible that this defendant continued the same conduct of the last 10 years or, after learning of these deficiencies, failed to remedy the wrong, that the deficiencies still exist and cost Plaintiff his sight, and it is plausible that additional discovery will fill in the gaps in the complaint.

Supervisory Liability for the Denial of Medical Care

Defendant Stickley holds the supervisory position of deputy warden for Special Management Unit 1. His personal responsibilities include the direct oversight of provision of constitutionally adequate healthcare for Special Management Unit 1. Estelle v Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976); U.S.C.A. 8.

He does this by personally meeting with the facility health administrator (FHA), director of nursing (DON), and Assistant Director of Nursing (ADON) who report deficiencies and areas of concern that adversely affect the provision of constitutionally adequate healthcare to SMU 1's prisoners. He investigates the accuracy of these reports and provides them to his supervisors.

Defendant Stickley as deputy warden receives the policies and directives from his superiors and assigns key personnel to handle the day-to-day duties entailed in the successful implementation of those decisions.

In spite of the presence of contracted healthcare professionals, he is liable for ensuring their work at SMU 1 is constitutionally adequate (Estelle) through his own culpable action or inaction in the training, supervision, or control of subordinates, his acquiescence in the constitutional deprivation of which a complaint is made or for conduct that showed a reckless or callous indifference to the rights of others (citation omitted). City of Canton v Harris, 489 U.S. 378, 385 109 S. Ct. 1197 (1989); see also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007).

Defendant Stickley has failed in his responsibilities

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to affirmatively supervise his subordinates as they supervise and train their subordinates to implement policies and directives in a manner that achieves the desired result of constitutionally adequate healthcare.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare through retaliatory actions

Plaintiff alleges that these are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Plaintiff alleges that Defendant Stickley has known of and disregarded the excessive risk to the health of prisoners posed by the 3 above-mentioned violations through more than a decade of litigation and failures of this prison to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601-PHX-ROS, an ADC prisoner class-action concerning the provision of medical care in ADCRR prisons. His knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues have been repeatedly highlighted as "long-standing, pervasive, well-documented and expressly noted" as "so likely to result in violations of constitutional rights" that the defendant "can reasonably be said to be indifferent to the need" for more or different training. Less than 65 percent of medical requests and grievances are processed according to policy,

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and less than 5 percent of grievances are processed. Most are designated as "unprocessed" in violation of DO 802 5.2.1-802.5.2.5 which only allows for a designation of either "resolved" or "not resolved". In an effort to cut off the complaints from reaching upper management and the ADCRR compliance monitor, and yet he failed to remedy the wrongs. This satisfies the supervisory and deliberate indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir. 1999)(a supervisor may be found personally involved in a deprivation of rights in several ways,,, He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue,,, He, after learning of the violation through a report or appeal may have failed to remedy the wrong,,,)

Plaintiff alleges that the deputy warden knew of the healthcare deficiencies, knew they would be grieved, and would likely be "unprocessed" from numerous Parsons v Ryan reports, and yet the defendant allowed this custom to continue and failed to remedy the wrong.

Plaintiff alleges that the defendant made a deliberate and conscious choice to not properly supervise or control subordinates in the proper processing of medical grievances to avoid oversight of his supervisors, the ADCRR compliance monitor, and the courts.

Plaintiff alleges that the defendant's deliberate and conscious choices actually allowed Plaintiff cries for help for medical care to purposefully go unanswered

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for so long that it resulted in the loss of his sight.

Plaintiff alleges these deliberate and conscious choices by the deputy warden sufficiently states a claim for supervisory liability for the denial of medical care due to deliberate indifference.

Discovery will be necessary to ascertain the extent of this defendant's liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye.); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir. 1984) (supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.

Finally, it has been held; "After Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts Plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F.Supp.2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D.Wis. 2009).

The answer is yes, it is plausible that the defendant failed in his supervisory duties to correct the same unconstitutional conditions of the last 10 years that Plaintiff alleges still exist and cost him his sight, and it is plausible that additional

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discovery will fill in whatever gaps are left in the complaint.

Supervisory Liability for the Denial of Medical Care

Defendant John Doe #1 holds the supervisory position of Assistant Deputy Warden of Special Management Unit 1. His responsibilities include administrative oversight of provision of constitutionally adequate medical care to prisoners under his care and for the training, supervision and control of subordinates to ensure they are training their subordinates and supervising them to ensure they are eliminating known deficiencies in medical provision. The ADW meets with subordinates to implement strategies to eliminate those deficiencies (DO 100) for the provision of constitutionally adequate healthcare for prisoners. Estelle v Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976); U.S. CA. 8.

In spite of the presence of contracted healthcare professionals the ADW is liable for ensuring that their work is constitutionally adequate (Estelle) through his own culpable action or inaction in the training, supervision, or control of subordinates, his acquiescence in the constitutional deprivation of which a complaint is made, or for conduct that showed a reckless or callous indifference to the rights of others (citation omitted). City of Canton v Harris, 489 U.S. 378, 389 109 S. Ct. 1197 (1989); see also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007).

Defendant Doe #1 failed in his responsibilities to affirmatively supervise his subordinates as they supervised and trained their subordinates to ensure provision of constitutionally adequate medical care. As ADW, he

was not aware and should have been aware, or allowed a custom that medical and grievance staff were not processing HNR's, medical complaints, and Emergency Grievances (medical) as required by DO 802; DO 1100, and that staff were not trained in such. Instead, these grievances were "unprocessed" in violation of DO 802.5.2.1-802.5.2.25, which only allows for a designation of either "resolved" or "unresolved". This "unprocessing" is done in an effort to cut off the complaints from reaching upper management and the ADCRR compliance monitor.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights and then to obstruct, silence or "chill" prisoners' First Amendment rights to file grievances about that constitutionally deficient healthcare through retaliatory actions.

Plaintiff alleges that these are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Plaintiff alleges that the Defendant has known of and disregarded the excessive risk to the health of prisoners posed by the 3 above-mentioned violations through more than a decade of litigation and failures of this prison to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601-PHX-ROS, an ADC prisoner class-action concerning the provision of Medical care in ADCRR prisons. His knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues

have been repeatedly highlighted as "long-standing, pervasive, well-documented and expressly noted" as "so likely to result in violations of constitutional rights that defendants can reasonably be said to be indifferent to the needs" by past administrations and courts.

This satisfies the supervisory liability and deliberate indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir 1999)(a supervisor may be found personally involved in a deprivation of rights in several ways... He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue... He, after learning of the violation through a report or appeal may have failed to remedy the wrong...)

Plaintiff alleges that this Defendant knew of the healthcare deficiencies, knew they would be grieved, and knew from numerous Parsons v Ryan reports they would likely be "unprocessed" and allowed the custom to continue.

Plaintiff alleges that this Defendant, in not properly training, supervising, or controlling subordinates in the proper processing of grievances, actually allowed and acquiesced to Plaintiff's cries for help obtaining medical care to purposefully go unanswered in an effort to avoid oversight of the ADCRR compliance monitor and the courts. The result is that Plaintiff's cries for help went unanswered for so long that he lost his sight.

Plaintiff alleges this was a deliberate and conscious

ADW

choice by the Defendant and sufficiently states a claim for Supervisory liability for the denial of medical care due to deliberate indifference.

Discovery will be necessary to ascertain the extent of this defendants' liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984)(jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984)(supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of); Harvey v LaValley, 2009 WL 5219027, *3 (N.D. N.Y., Dec. 31, 2009)(restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.)

Finally, it has been held; "After Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009).

The answer is yes, it is plausible that the that the defendant has failed in his supervisory duties to correct the same deficiencies that have lasted at least 10 years that plaintiff alleges still exist and led to his loss of sight, and it is plausible that discovery will fill in

whatever gaps are left in the complaint.

Defendant Jane Doe #2 (FHA Doe) holds the supervisory position of Facility Health Administrator, whose responsibilities include administrative oversight of prisoner healthcare which shall include diagnosis, care and treatment, preventative healthcare and education in the areas of physical, mental, dental, environmental health, the training and supervision of subordinates in the remedying of deficiencies of the above, and overall coordination with institutional management to ensure minimal training for recognition of emergency and urgent medical issues are being trained among security personnel. The Facilty Health Administrator is also responsible for meeting with and submitting reports of occurrances of medical deficiencies to upper management to include the Deputy Warden and ADCRR compliance monitor. DO 100.1.1.1-1.1.2; 4.0.

Defendant Doe was grossly deficient of responsibilities because she was not aware and should have been aware that medical staff were not processing HNR's, Medical complaints, and Emergency (Medical) Grievances as required by DO 802; DO 1100.

In this case Plaintiff developed severe eye problems that he submitted (over a period) 12 HNR's and 2 Emergency Grievances requesting medical care and 14 Medical complaints and grievances in an effort to receive proper care. The responses to the HNR's were not respond to in a timely manner, forcing Plaintiff to resort to the Medical Grievance process (DI 287, 802.02, 802.05). These grievances were mishandled, "unprocessed" by the FHA's subordinates, even though they were addressed to the FHA per policy (DO 802.05), and even though (DO 802.5.2.1-802.5.2.5) only allows for a designation of either "resolved" or "not-resolved". This was done in an effort to cut off the (multiple) complaints from reaching upper management and the ADCRR compliance monitor.

FHA

This deliberate indifference resulted in the Plaintiff's loss of one eye (blindness) and irreversible damage to the other (partial blindness).

This prison's current history is a pattern and practice by officials to deny necessary medical care in violation of prisoners' Eight Amendment rights and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare.

Defendant FHA Doe does have supervisory liability for failure to adequately train and supervise subordinates under City of Canton v Harris, 489 U.S. 378, 385, 109 S.Ct. 1197 (1989); also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir. 2007) holding that supervisors can be held liable for (1.) their own culpable action or inaction in the training, supervision, or control of subordinates; (2) their acquiescence in the constitutional deprivation of which a complaint is made; or (3) for conduct that showed a reckless or callous indifference to the rights of others (citation omitted).

As soon as Defendant FHA Doe's subordinates signed their names to the multiple "unprocessing" of medical grievances that were, by policy, to be responded to by the FHA (DO 802.05) they implicated FHA Doe #2 in #1 and #2 above, the failure to train and supervise and the acquiescence in the constitutional deprivations of which a complaint is made.

CV-22-00042-PHX-GMS (MTM)

Discovery will be necessary to ascertain the extent of this Defendant's liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir 1984) (jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984) (supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.

Finally, it has been held; "after Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint? Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis 2009).

The answer is yes, it is plausible that after more than 10 years of failures to meet constitutional standards, the defendant still continues to fail to correct those deficiencies and that those failures cost plaintiff his sight; and it is plausible that discovery will fill in the gaps left in the complaint.

FHA

Supervisory Liability for the Denial of Medical Care

Defendant Doe # 3 holds the supervisory position of Director of Nursing (DON), whose responsibilities include administrative oversight of the nursing department and training and supervision of their daily activities.

Of the areas the DON trains and supervises, the most important are the proper triage and processing of Health Needs Requests, investigation of medical grievances, and general coordination of all specialist appointments.

Finally, the DON is responsible for general oversight of correctional procedures of medical deficiencies, once reported, to ensure they do not reoccur. DO 100, U.S.C.A. 8 This means the DON is responsible to ensure provision of constitutionally adequate healthcare. Estelle v Gamble, 429 U.S. 97, 97 S.Ct 285 (1976); U.S.C.A.8

Defendant Doe # 3 failed to affirmatively supervise subordinates as they trained and supervised their subordinates to properly triage and screen HNR's, respond to medical complaints, and schedule specialist appointments, and provide uninterrupted supply of Plaintiff's medications.

Because of this failure Plaintiff's medical requests were not triaged properly, his grievances "unprocessed", and his medications allowed to repeatedly lapse.

This, Plaintiff alleges, was a deliberate and conscious choice not to properly supervise or control the Director of Nursing's subordinates

4-W

in the proper triage of HNR's, proper processing of medical complaints, and the proper scheduling of off-site appointments, to avoid oversight of supervisors, the ADCRR compliance monitor, and the courts.

This prison's current history has been documented and expressly noted as a pattern and and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights, and then to obstruct, silence or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare through retaliatory actions and by "unprocessing" grievances in violation of DO 802.5.2.1-802.5.2.2.5, which only allows for a designation of either "resolved" or "unresolved," done in efforts to cut off the complaints from reaching upper management and the ADCRR compliance monitor.

Plaintiff alleges that these are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Plaintiff alleges that the Defendant has known of and disregarded the excessive risk to the health of prisoners posed by the 3 above-mentioned violations through more than a decade of litigation and failures of this to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601-PHX-ROS, an ADC prisoner class-action concerning the provision of medical care in ADCRR prisons. Defendant's knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues have repeatedly been highlighted as "long-standing, pervasive, well-documented and expressly noted" as "so likely to result in

DON M-X

violations of constitutional rights that defendants can reasonably be said to be indifferent to the need" for more or different training, supervision, and control of subordinates by past administrations and courts.

This satisfies the supervisory liability and deliberate indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F.3d 252, 264 (2d Cir 1999) (a supervisor may be found personally involved in a deprivation of rights in several ways... He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue... He, after learning of the violation through a report or appeal may have failed to remedy the wrong...)

Plaintiff alleges this Defendant knew of the healthcare deficiencies, knew they would be grieved, and knew from numerous Parsons v Ryan reports they would likely be "unprocessed" and allowed the custom to continue.

Plaintiff alleges that this Defendant, in not properly training, supervising, or controlling subordinates in the proper processing of medical complaints, actually allowed and acquiesced to Plaintiff cries for help obtaining medical care to purposefully go unanswered in an effort to avoid oversight of the ADCRR compliance monitor and the courts. The result is that Plaintiff's cries for help went unanswered for so long he lost his sight.

Plaintiff alleges these were a series of deliberate and conscious choices by the Defendant and sufficiently states a claim for supervisory liability for the denial of medical care due

DON M-Y

to deliberate indifference.

Discovery will be necessary to ascertain the extent of this defendant's liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir. 1984) (jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir. 1984) (supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of"); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009) (restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.)

Finally, it has been held; "After Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009).

The answer is yes, it is plausible that the defendant has failed in his supervisory duties to correct the same deficiencies of the last 10 years that plaintiff alleges still exist and led to his loss of sight, and discovery will fill in the gaps in the complaint.

DON 11-2

Defendant Doe #4 holds the position of Assistant Director of Nursing, whose responsibilities include administrative oversight of the nursing department, training, supervision, and control of subordinates, including proper triage and screening of Health Needs Requests (HNR's) in a timely and appropriate manner, scheduling and coordination of specialist care, and reporting non-compliance issues to the DON and FHA.

Defendant Doe #4 was grossly deficient of her responsibilities because either she was not aware and should have been or was aware and was complicit that her subordinates were not appropriately triaging, processing, and scheduling appointments for Plaintiff's HNR's, medical complaints and grievances, and Emergency Grievances as required by DO 802, DO 1100, DO 100, and U.S.C.A. 8.

In this case Plaintiff was denied eye medication, developed a severe eye infection, suffered an exploded optic nerve that rendered him blind, all while his HNR's, medical complaints and grievances went unanswered for months on end. His medical grievances were "unprocessed" in violation of DO 802.5. 2.1-802.5.2.2.5 which allows only for a designation of either "resolved" or "unresolved", in an effort to cut off the complaints about the lack of medical care from reaching upper management and the ADCRR Compliance Monitor. This deliberate indifference caused Plaintiff's

blindness in one eye and harmed his remaing eye (partial blindness).

This prison's current history is a pattern and practice by officials to deny necessary and adequate medical care for serious medical needs in violation of prisoners' Eighth Amendment rights and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare which has been most recently evidenced by ADCRR's failure to meet court-ordered stipulations and the resulting resumption of Parsons v Ryan litigation.

Defendant Doe #4 does have supervisory liability for failure to adequately train and supervise subordinates under City of Canton v Harris, 489 U.S. 378, 385, 109 S. Ct 1197 (1989); also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir 2007) that supervisors can be held liable for (1) their own culpable action or inaction in the training, supervision, or control of subordinates; (2) their acquiescence in the constitutional deprivation of which a complaint is made; or (3) for conduct that showed a reckless or callous indifference to the rights of others (citation omitted).

Discovery will be necessary to ascertain the extent of Defendant Doe's actions or inactions in the training, supervision, or control of subordinates on the issue of why so many HNR's and grievances requesting medical care went unanswered. This is supported by

Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir 1984)(jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984)(supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of"); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 3, 2009)(restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.

Discovery will reveal that these are not isolated occurrances, that this prison's current history is documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights, and then to obstruct, silence, or "chill" prisoners' First Amendment right to file grievances about that constitutionally deficient healthcare through retaliatory actions and the aforementioned "unprocessing" of valid complaints

Finally, it has been held; "After Iqbal and Twombly court assessing sufficiency of complaint should ask: if all facts Plaintiff alleges are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculative) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009)

The answer is yes, in this case, discovery will fill in whatever gaps are left in the complaint.

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Defendant Gay holds the position of provider of medical care for prisoners at SMU1. She is responsible for the diagnosis and treatment of medical needs. She is also responsible for reordering medications and ensuring prisoners are provided with constitutionally adequate medical care. DO 100, DO 1100, U.S. CA8, Estelle v Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976)

Defendant Gay failed in her responsibilities to Plaintiff by failing to ensure his medication was not interrupted. Due to this failure Plaintiff's eye condition worsened and the resulting infection was allowed to run rampant as his requests for medical attention was ignored by Defendant Gay. Defendant Gay failed to see Plaintiff within policy guidelines, taking 6 months to see him when guidelines call for 2 weeks. Due to this constitutional violation Plaintiff is now blind.

This, the plaintiff alleges, was a deliberate and conscious choice to not see every prisoner for every HNR, but instead to wait until they had submitted multiple HNR's to schedule the first visit. Plaintiff alleges this was done as a cost-cutting measure, and that discovery will bear out an unofficial custom of the aforementioned HNR scheduling practices.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights. It has also been noted to

"adjust" HNR reporting numbers to avoid oversight by the ADCRR compliance monitor and the courts.

Plaintiff alleges that these are not isolated occurrances They are long-standing and pervasive, deliberate and conscious choices to limit costs. The result of these choices are the infliction of wanton and unnecessary pain.

Plaintiff alleges that Defendant Gay has known of and disregarded the excessive risk to prisoners posed by these practices, and discovery will bear this out.

Defendant's knowledge is direct, a result of being near the center of nearly 10 years' litigation highlighting these very risks, and a result of being a defendant herself in other litigatory actions for these very same practices.

Defendant's knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as "long-standing, pervasive and well documented violations of constitutional rights that are so obvious that defendants can reasonably be said to be" deliberately indifferent to the needs of the prisoner population.

Defendant Gay was deliberately indifferent to Plaintiff's cries for help when she allowed 6 months to pass without seeing him for his eye infection, despite multiple requests submitted by the Plaintiff, and when she repeatedly allowed the provision of his eye medication to lapse, resulting in the eye infection. In doing so Defendant Gay violated Plaintiff's Eighth Amendment rights by denying him medical care, and subjected him to cruel and unusual punishment.

Defendant Merriman holds the position of provider of medical care for prisoners at SMU 1. She is responsible for the diagnosis and treatment of medical needs, reordering medications and ensuring prisoners are provided with constitutionally adequate medical care. DO 100, DO 1100, U.S.C.A. 8, Estelle v Gamble, 429 U.S. 97, 97 S.Ct 285 (1976)

Defendant Merriman failed in her responsibilities to Plaintiff by allowing his eye medication to lapse and then being negligent in ordering his refills so there would be no lapse. This caused an infection in his eye that resulted in his blindness.

Defendant Merriman then failed to see Plaintiff in response to his HNR's within the timeframes allowable by policy, thus needlessly extending Plaintiff's pain and suffering.

Plaintiff alleges these were deliberate and conscious choices made in an effort to cut costs, and that discovery will bear this out.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' Eighth Amendment rights. It has also been noted to "adjust" medical deficiency numbers to avoid oversight by the ADCRR compliance monitor and the courts.

Plaintiff alleges that these are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to limit costs. The

result of these choices, for the Plaintiff was the infliction of wanton and unnecessary pain.

Plaintiff alleges that Defendant Merriman has known of and disregarded the excessive risk to prisoners posed by these practices and discovery will also bear this out.

Defendant's knowledge is a direct result of being at the center of numerous controversies and litigation actions for these very same practices.

Defendant's knowledge can also be said to be by inference, supported by Farmer v Brennan, 511 U.S. 825 (1994) as long-standing, pervasive and well-documented violations of constitutional rights that are so obvious that defendants can reasonably be said to be deliberately indifferent to the needs of the prisoner population.

Defendant Merriman was deliberately indifferent to Plaintiff's cries for help when she did not see him until 6 months after his request, and by allowing his medications to repeatedly lapse without refill. In doing so, Defendant Merriman violated Plaintiff's Eighth Amendment rights by denying him medical care and subjecting him to cruel and unusual punishment.

Officer John Doe #5 is a corrections officer at SMU 1 whose responsibilities on or about April 29, 2019, was solely escorting prisoners to medical unit.

Defendant Doe #5, instead of attempting to bring Plaintiff to medical on that day, fraudulently claimed Plaintiff was refusing to go to medical and signed a form in Plaintiff's name indicating so.

In forging this document, Defendant Doe #5 denied Plaintiff the medical care for his eye infection he had been requesting for more than a month.

Because of this, Plaintiff eye infection worsened due to lack of treatment and he eventually lost his sight.

Officer John Doe #5 violated plaintiff's Eighth Amendment rights by denying him medical care and subjecting him to cruel and unusual punishment.

This is not an isolated incident. This has been the subject of many complaints, grievances, and litigation going as far back as 10 years. Discovery will bear out that this has been a long-standing and expressly noted repeated occurrences and Defendant Doe #5, having been advised of this in numerous meetings knew of and disregarded the excessive risk to prisoners posed by this practice.

Supervisory Liability for the Denial of Medical Care

Defendant Dison holds the supervisory position of Grievance Coordinator. Her personal responsibilities include the administrative oversight of the grievance department and training, supervising, and controlling grievance officers to ensure complaints and grievances are assigned a case number and are forwarded to the appropriate party (DO 802; U.S.C.A. 8; Lewis v Casey, 518 U.S. 343, 355, 116 S. Ct. 2174 (1996). She does this by personally training grievance officers in how to respond to and properly process complaints and grievances of all types, supervising and controlling grievance staff to ensure compliance with ADCRR policy, state and federal law.

Defendant Dison was grossly deficient of her responsibilities because he was not aware but should have been or was complicit in grievance staff not processing complaints and grievances as required by DO 802, state and federal law, and that these long-standing pervasive and expressly-noted deficiencies (revealed over 10 years of Parsons v Ryan litigation) were adversly affecting other areas of prison life, such as the denial of medical care, as a result.

The grievance staff knew of these deficiencies through more than 10 years of litigation, but their "knowledge by inference" is supported by Farmer v Brennan, 511 U.S. 825 (1994) because these very same issues have

Grievance

been repeatedly highlighted in multiple civil rights lawsuits.

In spite of the presence of subordinate grievance staff the Grievance Coordinator, as supervisor, is ultimately responsible to ensure their work is constitutionally adequate (Lewis; Hudson).

The grievance staff were grossly negligent because the complaints and grievances were (1) forwarded to the wrong personnel; not processed (i.e, 2 emergency grievances were refused processing outright); (3) not responded to at all or not responded to in a timely manner; or (4) ultimately designated as "unprocessed" to cut off the complaints from reaching upper management (in violation of DO 802.5.2.1 ~ 802.5.2.2.5 which grants either "resolved" or "not resolved" as options available to the grievance staff.

Defendant Dison does have supervisory liability for failure to adequately train, supervise, and control subordinates under City of Canton v Harris, 489 U.S. 378, 389 109 S.Ct 1197 (1989); also Edgerly v City and County of San Francisco, 495 F.3d 645, 660 (9th Cir 2007) that supervisors can be held liable for (1) their own culpable action or inaction in the training, supervision, or control of subordinates; (2) their acquiescence in the constitutional deprivation of which a complaint is made; or (3) for conduct that showed a reckless or callous indifference to the rights of others (citation omitted)

As soon as Defendant Dison "unprocessed" medical grievances that were not under her authority to handle she implicated herself. When her grievance staff repeatedly followed suit, they implicated her as well, establishing 1st and 8th Amendment violations.

This prison's current history has been documented and expressly noted as a pattern and practice by officials to deny medical care in violation of prisoners' 8th Amendment rights, and then to obstruct, silence, or "chill" prisoners 1st Amendment rights to file grievances about that constitutionally deficient healthcare through retaliatory actions.

Plaintiff alleges that these are not isolated occurrances. They are long-standing and pervasive, deliberate and conscious choices to inflict wanton and unnecessary pain.

Plaintiff alleges that Defendant has known of and disregarded the excessive risk to the health of prisoners posed by mishandling medical complaints and grievances through more than a decade of litigation and failures of this prison to meet court-ordered stipulations in Parsons v Ryan, CV-12-00601-PHX-ROS, an ADC prisoner class-action concerning the provision of medical care in ADCRR prisons. Her knowledge by inference is supported by Farmer v Brennan, 511 U.S. 825 (1994) as these very same issues have been repeatedly highlighted as "long-standing, pervasive,

Grievance

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well-documented and expressly noted as "so likely to result in violations of constitutional rights" that the defendant "can reasonably be said to be indifferent to the need" for more or different training. Less than 15 percent of medical complaints and grievances are processed according to policy, delaying much needed medical aid, due to the deliberate indifference of grievance staff and the lack of training, supervision, and control of grievance staff.

This satisfies the supervisory liability and deliberate indifference requirements under Farmer v Brennan and Blyden v Mancusi, 186 F. 3d 252, 264 (2d Cir 1999)(a supervisor may be found personally involved in a deprivation of rights in several ways... He may be liable because he created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue... He, after learning of the violation through a report or appeal may have failed to remedy the wrong...)

Plaintiff alleges that the defendant knew of the grievance policy deficiencies, that the grievances would be designated "unprocessed" from multiple Parsons v Ryan reports, and also knew from those same reports that this action would adversely affect the provision of constitutionally adequate healthcare, and yet the defendant not only allowed the custom to continue but personally participated in it by "unprocessing" medical grievances herself.

This is a deliberate, conscious choice that actually

allowed Plaintiff's cries for help for obtaining medical care to purposefully go unanswered for so long that it resulted in the loss of his sight.

Plaintiff that these deliberate and conscious choices by the Grievance Coordinator sufficiently states a claim for supervisory liability for the denial of medical care due to deliberate indifference.

Discovery will be necessary to ascertain this defendants extent of liability. This is supported by Matzker v Herr, 748 F.2d 1142, 1147-48 (7th Cir 1984)(jail officials liable for holding prisoner for 3 months but refused to provide treatment for injured eye); see also Satchell v Dilworth, 745 F.2d 781, 786 (2d Cir 1984)(supervisors can be named as parties "at least for purposes of identifying those of their subordinates who are personally responsible for the departmental actions complained of"); Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009)(restating rule permitting inclusion of supervisors as named defendants for discovery purposes after Iqbal.

Finally, it has been held: "After Iqbal and Twombly, court assessing sufficiency of complaint should ask: if all facts Plaintiff alleges in his complaint are accepted as true, but all conclusions are rejected, is it still plausible (that is, more than speculation) to believe that additional discovery will fill in whatever gaps are left in the complaint?" Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS

Grievance

98548 (W.D. Wis 2009)

The answer is yes, it is plausible that defendant failed in his supervisory duties to correct the same constitutional deficiencies that have plagued this prison for the last 10 years and that Plaintiff alleges still exist and cost him his sight. Yes, it is plausible that additional discovery will help fill in the gaps left in this complaint.

E. REQUEST FOR RELIEF

State the relief you are seeking:

A. Declare the actions and inactions described herein violated Plaintiff's rights under the Constitution and the laws of the United States;
B. Order Defendants to pay compensatory damages of $5,000,000.00 (5 million dollars) and punitive damages of $5,000,000.00 (5 million dollars) according to this Court's findings of liability;
C. Order Defendants to pay reasonable attorneys fees and costs;
D. Other just and equitable relief that this Court deems necessary.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March-8-2022
DATE

X _____
SIGNATURE OF PLAINTIFF

_____
(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

_____
(Signature of attorney, if any)

_____
(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.

Shaun Andrew Peterson #298007
ASPC Eyman Complex/Meadows Unit
PO Box 3300
Florence, Arizona 85132

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Shaun Andrew Peterson, Plaintiff v David Shinn, et al, Defendants	CV-22-00042-PHX-GMS (MTM) CHIEF JUDGE G. MURRAY SNOW AFFIDAVIT IN SUPPORT OF MOTION TO ALTER, AMEND, OR RECONSIDER

AFFIDAVIT OF SHAUN PETERSON

I, Shaun Peterson, affirm under penalty of perjury:

1. I am the plaintiff in the above-numbered case, currently pending in the United States District Court for the District of Arizona.

2. I am pro per

3. I have lost complete sight in one eye and suffered irreparable damage to the other. I am legally blind. Eyeglasses cannot correct my sight

well enough to read with my damaged eye.

4. I go to the prison legal resource center when I can to learn how to properly fill out this civil suit complaint but I cannot see well enough to read the books.

5. I must use someone else to write for me.

6. Because we keep having COVID outbreaks, we are quarantined from other prisoners often. This means I do not have access to other prisoners trained in the law to help correct errors.

7. The contract paralegal is not meeting face-to-face anymore. Everything must be explained over the telephone now without being able to take or read notes.

8. The United States Court of Appeals for the Ninth Circuit has instructed, courts must "continue to construe pro se filings liberally." Hebbe v Pliler, 627 F.3d 338, 342 (9th Cir 2010) see also Erickson v Pardus, 551 U.S. 89, 94 (2007). How much more so for a blind prisoner litigating essentially on his own.

9. This case rests heavily on post-Iqbal findings allowing inclusion of supervisors for discovery purposes in

Harvey v LaValley, 2009 WL 5219027, *3 (N.D.N.Y., Dec. 31, 2009) and Riley v Vilsack, 665 F. Supp. 2d 994, 2009 U.S. Dist. LEXIS 98548 (W.D. Wis. 2009). It is not a "fishing expedition." I believe discovery will aid me in proving every allegation in this complaint.

10. I will need this Court's forebearance to do so, because I cannot get all the procedures and formats exactly right because I cannot read the legal resource library books.

State of Arizona
County of Pinal
Subscribed and sworn/affirmed before me this 24 day of FEB, 20 22
By SHAUN ANDREW PETERSON
(Name of Signer)

JOSEPH C. MAINHALL
Notary Public - State of Arizona
PINAL COUNTY
Commission # 612193
Expires September 18, 2025

Notary Public